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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,616		09/08/2003	Josef V. Koblish	15916-271FX	2540
21836	7590	09/05/2006		EXAM	INER
HENRICK SUITE 200	S SLAV	N AND HOLME	VRETTAKOS, PETER J		
	40 APOLLO STREET			ART UNIT	PAPER NUMBER
EL SEGUN	DO CA	90245		3739	

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		I A P P N	Annlingado					
. •		Application No.	Applicant(s)					
	0.55	10/658,616	KOBLISH ET AL.					
	Office Action Summary	Examiner	Art Unit					
		Peter J. Vrettakos	3739					
Period fo	The MAILING DATE of this communication or Reply	n appears on the cover sheet	with the correspondence address	;				
WHIC - Exter after - If NO - Failu Any	ORTENED STATUTORY PERIOD FOR F CHEVER IS LONGER, FROM THE MAILIN nsions of time may be available under the provisions of 37 ( SIX (6) MONTHS from the mailing date of this communication of period for reply is specified above, the maximum statutory re to reply within the set or extended period for reply will, by reply received by the Office later than three months after the end patent term adjustment. See 37 CFR 1.704(b).	NG DATE OF THIS COMMUNICER 1.136(a). In no event, however, may on.  period will apply and will expire SIX (6) Me statute, cause the application to become	NICATION. a reply be timely filed  ONTHS from the mailing date of this communi ABANDONED (35 U.S.C. § 133).					
Status								
1)🛛	Responsive to communication(s) filed on	<u>3-21-06</u> .		•				
2a) <u></u>	This action is <b>FINAL</b> . 2b)⊠	This action is non-final.						
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims							
4)⊠	Claim(s) <u>12,14-16 and 18-24</u> is/are pend	ing in the application.						
	4a) Of the above claim(s) is/are withdrawn from consideration.							
5)□	) ☐ Claim(s) is/are allowed.							
6)⊠	Claim(s) <u>12,14-16 and 18-24</u> is/are reject	ted.						
-	Claim(s) is/are objected to.							
8)□	Claim(s) are subject to restriction	and/or election requirement.						
Applicati	ion Papers							
9)[	The specification is objected to by the Exa	aminer.						
10)[	☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11)	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority ι	ınder 35 U.S.C. § 119							
12)	12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:							
	1. ☐ Certified copies of the priority documents have been received.							
	2. Certified copies of the priority documents have been received in Application No							
	3. Copies of the certified copies of the priority documents have been received in this National Stage							
	application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.								
Attachmen	ıt(s)							
_	ce of References Cited (PTO-892)		w Summary (PTO-413)					
2) Notice	ce of Draftsperson's Patent Drawing Review (PTO-9		lo(s)/Mail Date of Informal Patent Application (PTO-152)	1				
	mation Disclosure Statement(s) (PTO-1449 or PTO/ er No(s)/Mail Date	SB/08) 5)  Notice (		ı				

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## **DETAILED ACTION**

Claims 12, 14-16 and 18-24 are pending.

## Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 12, 14, 20 and 21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,645,200. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are toward an electrode with connecting holes.

Claims 12, 14, 20 and 21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6,464,700. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because both sets of claims are toward an electrode with connecting holes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pete Vrettakos August 29, 2006 ROY D. GIBSON
PRINTORY EXAMINER

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